

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

JOHN D. COUCH and : CASE NO. _____
DARLENE COUCH :
Plaintiffs : JUDGE _____
VERSUS :
DELIGHT FABRICATION, L.L.C. and :
XYZ INSURANCE COMPANY : MAGISTRATE JUDGE _____
Defendants :

ORIGINAL COMPLAINT

The original complaint of John D. Couch and Darlene Couch, with respect, shows:

JURISDICTION AND VENUE

1.

This is a personal injury action brought pursuant to Louisiana Civil Code article 2315 by John D. Couch and Darlene Couch, of the full age of majority, for damages from Defendant, DELIGHT FABRICATION, L.L.C. (“Delight”) and its liability insurer, XYZ Insurance Company (“XYZ”), arising out of injuries Mr. Couch sustained at the House of Raeford Farms in Arcadia, Louisiana on December 27, 2015. Jurisdiction of this Court arises under 28 U.S.C. §1332, diversity of citizenship.

2.

Plaintiffs are citizens of the State of Louisiana. Defendant Delight is a citizen of the State of Arkansas. For purposes of venue and jurisdiction, Defendant XYZ has the same citizenship as its insured, Defendant Delight, pursuant to 28 U.S.C. §1332(c)(1). The amount in controversy, exclusive of interest and costs, exceeds the amount set forth in 28 U.S.C. §1332.

3.

Venue is proper in this District because the accident which caused the traumatic injuries of John D. Couch occurred in this District at Plaintiff, John D. Couch's, place of employment, House of Raeford Farms, 3867 2nd Street, Arcadia, Louisiana 71001.

PARTIES

4.

Plaintiffs John D. Couch and Darlene Couch are both natural persons of the full age of majority. Each Plaintiff is a resident of the State of Louisiana.

5.

Defendant Delight is a Non-Louisiana limited liability company having its principal place of business establishment in Arkansas at 1288 Hwy 195S, Delight, Arkansas 71940. Defendant XYZ is the liability insurer for Defendant Delight under a liability policy which was in full force and effect on December 27, 2015 and provided indemnification for the actions of Defendant Delight and its employees.

FACTUAL ALLEGATIONS

6.

John D. Couch is an employee of House of Raeford Farms ("Raeford Forms"), which is a poultry processing plant and a Louisiana limited liability company with its principal place of business in Arcadia, Louisiana.

7.

In the early morning hours of December 27, 2015, Mr. Couch, who works the graveyard shift, was working alone in the refrigeration unit ("ice house"). No other employees of Raeford Farms work on the weekends.

8.

Raeform Farms is a poultry processing plant and it contracted with Defendant Delight on or about September 11, 2014, to remove old auger from ice house and install conveyor and FABED, install chout into building cut and replace grading FABED pan and put under conveyor.

9.

On December 27, 2015, while Mr. Couch was working in the ice house and working alone, he went to check on the ice. As he turned around, he stepped on the grating installed by Defendant Delight and fell through the grating. The grating was not welded down.

10.

Mr. Couch suffered a deep laceration to the mid right shin area with arterial bleeding, and a rotator cuff injury, which required surgical intervention and the use of a sling for several weeks.

11.

As a consequence of his injuries, John D. Couch has experience pain and suffering, loss of earnings, diminished earning capacity, humiliation, loss of enjoyment of life and medical expenses for treatment necessitated by Defendant's negligence, gross negligence and professional negligence.

12.

Plaintiff, Darlene Couch, has sustained a loss of consortium in the nature of a loss of services, support and society associated with the injuries sustained by her husband, John D. Couch.

13.

It will be necessary to use medical witnesses and expert witnesses at the trial of this matter and their fees together with any expenses for taking their depositions should be fixed and taxes as court costs.

14.

At all times pertinent to this action, Defendant XYZ had in full force and effect a policy of comprehensive general liability insurance to indemnify Defendant Delight for damages caused by its negligence or the negligence of any of its employees. Said policy is applicable to the instant matter.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury for all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs John D. Couch and Darlene Couch, pray that citation and service be made on Defendants Delight Fabrication, L.L.C. and XYZ Insurance Company, and after due proceedings had, there be judgment herein in favor of Plaintiffs and against Defendants for all damages, costs and interest from date of judicial demand until paid in full, all as prayed for above.

Respectfully submitted,

WINCHELL & JOSEPH, LLC

By: /s/ Curtis R. Joseph, Jr.
CURTIS R. JOSEPH, JR.
La. Bar Roll No. 26944
2124 Fairfield Avenue
Shreveport, LA 71104
(318) 221-1600
(318) 425-1256 (facsimile)
COUNSEL FOR PLAINTIFFS